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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WILBUR L. ROSS, JR., et al.,

Defendants.

CASE NO. 5:20-cv-05799-LHK

**STIPULATION AND [PROPOSED]
ORDER REGARDING CENSUS AND
POPULATION COUNTS AND 21-DAY
STAY OF PROCEEDINGS**

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties to this action, by their respective
2 counsel, respectfully submit the following Joint Stipulation:

3 WHEREAS, for the reasons set forth below, in light of the current depositions, motions
4 and discovery deadlines on calendar and the pending transition to a new Administration,
5 Defendants have requested a 21-day stay of the case in order to provide for an orderly transition
6 and to let the new Administration assess this case;

7 WHEREAS, Defendants state that the Census Bureau will not be in position to finalize or
8 provide apportionment data until many weeks after January 20, 2021, the date on which the
9 incoming Administration will take responsibility for supervision of the Census Bureau;

10 WHEREAS, Defendants state that the Census Bureau will not be in position to finalize or
11 provide reports, estimates, or data relating to (i) the July 21, 2020 Presidential Memorandum on
12 Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census or (ii)
13 Executive Order 13880, entitled Collecting Information About Citizenship Status in Connection
14 with the Decennial Census (July 11, 2019), until many weeks after January 20, 2021;

15 WHEREAS, this ongoing litigation has required Defendants to expend substantial
16 resources, including for preparation of many depositions scheduled for next week and the
17 production of numerous documents and materials;

18 WHEREAS, Defendants believe that the public interest would be served by staying all
19 proceedings in this litigation for 21 days, in that such a stay would permit the incoming
20 Administration to evaluate the Census Bureau's and the Department of Commerce's operations
21 and assess, among other things, the interests of the United States and its litigating positions in
22 light of Plaintiffs' claims in this case;

23 WHEREAS, Plaintiffs are amenable to a 21-day stay, based on Defendants' express
24 acknowledgments and representations below, provided to ensure that Plaintiffs are not prejudiced
25 in any way by a stay.
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NOW, THEREFORE, DEFENDANTS HEREBY STIPULATE AS FOLLOWS:

- 1) Reports, estimates, or data relating to the July 21, 2020 Presidential Memorandum on Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census will not be finalized, reported or publicly disclosed prior to the change of Administration on January 20, 2021. Should such information be finalized after the change of Administration but prior to the end of the proposed stay, Defendants would provide Plaintiffs with 7 days' detailed notice prior to reporting or publicly disclosing it.
- 2) Reports, estimates, or data relating to Executive Order 13880, entitled Collecting Information About Citizenship Status in Connection with the Decennial Census (July 11, 2019), will not be finalized, reported or publicly disclosed prior to the change of Administration on January 20, 2021. Should such information be finalized after the change of Administration but prior to the end of the stay, Defendants would provide Plaintiffs with 7 days' detailed notice prior to reporting or publicly disclosing it.
- 3) Neither the Census Bureau nor the Department of Commerce will report or publicly disclose any population counts or estimates relating to the population as of April 1, 2020, including counts or estimates of the illegal alien/undocumented immigrant population, prior to the change of Administration on January 20, 2021. To the extent such population counts or estimates are developed after the change of Administration but prior to the end of the stay, Defendants would provide Plaintiffs with 7 days' detailed notice prior to reporting or publicly disclosing them.
- 4) That the restrictions contained in (1) – (3) above shall not apply to Defendants' obligations to respond to information requests from Congress or the Office of the Inspector General.

1 FURTHER, THE PARTIES JOINTLY STIPULATE AS FOLLOWS:

2 a) That the Court enter a 21-day stay of this case, effective beginning on January 15,
3 2021 and lifting on February 5, 2021, with any deadlines currently due January 15, 2021
4 becoming due on February 5, 2021, and all other deadlines commensurately shifted;

5 b) That the Court resolve Plaintiffs' Renewed Motion to Compel and for Sanctions, ECF
6 No. 433, except that Plaintiffs ask the Court to hold their request for sanctions contained therein
7 in abeyance and not resolve it at this time, subject to Plaintiffs renewing such request in the
8 future if warranted given the parties' ongoing discussions on these matters. If the Magistrate
9 Judge Panel issues a decision on Plaintiffs' Motion to Compel, the parties reserve their right to
10 appeal that decision to the District Court and the appellate courts, and to seek a stay pending any
11 appeal of any adverse decision;

12 c) That the parties file a Joint Case Management Statement on February 3, 2021, for a
13 Further Case Management Conference on February 5, 2021 at 10:00 a.m. PT;

14 d) That, should the parties not reach earlier resolution, the case shall restart on February
15 5, 2021 under the exact same schedule currently in place, and Defendants will not resist or
16 challenge Plaintiffs taking any of the depositions currently noticed or producing any of the
17 documents and materials Defendants currently are obligated to produce, but Defendants may
18 assert the objections that they would have had in the normal course.

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20
21 Dated: January 15, 2021

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ATTESTATION

I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

Dated: January 15, 2021

LATHAM & WATKINS LLP

By: /s/ Sadik Huseny
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[PROPOSED] ORDER

The stipulation is GRANTED.

PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: _____

Honorable Lucy H. Koh
United States District Judge